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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/771,890
Filing Date: February 04, 2004
Appellant(s): REBER, HOBIE

MAILED

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GROUP 3600

Reber
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/27/2007 appealing from the Office action mailed 3/23/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 2003/0110078	Chang et al.	06-2003
US 2002/0083061	Russell	06-2002
US 2001/0044751	Pugliese, III et al.	11-2001
PTO for 892 reference U	Crossman, Craig	03-1994

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

- I. Claims 1-3, 8-11, 13, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al. (US 20030110078) in view of Russell (US 20020083061).
- II. Claims 4-5, 7, 12, 14, 17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Russell as applied to claims 1 and 8, and further in view of Pugliese III et al. (US 20010044751).
- III. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in vies of Russell as applied to claims 1 and 8, and in further view of PTO 892 U (herein 892u).

(10) Response to Argument

Applicant's arguments filed have been fully considered but they are not persuasive.

Regarding claim 1, the Examiner hereby notes applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Though Applicant offers a broad summary of both the claimed invention and the cited prior art (see pages 11, 12, and the top of 13), the remarks provided on page 13 merely allege that Chen and Russell do not suffice to teach Applicant's invention.

Additionally, the Examiner asserts that the combination of Chang and Russell clearly teaches the claimed invention as pointed out by the Examiner's rejection.

Chang teaches a system for locating and determining the availability and location of an item offered for sale in a shopping mall. The shopping mall environment of Chang provides a multi-dealer retail establishment in which a customer can interface with a device to locate items inside that mall environment. As is the case within a shopping mall, each dealers occupies an individual store which offers a multitude of products. Thereby, the environment outlined in the preamble of the claims is indeed the environment provided by Chang.

Chang's deficiency is merely the lack of an explicit means for inputting the merchant information and the product information, though it is implicitly implied by Chang as some means and step of inputting such information must be performed in order for database 31 to contain such information. This deficiency is undoubtedly remedied by Russell, who provides a dedicated computer system/kiosk in the venue operable with searchable reader software to provide a user

with the ability to search and have presented information regarding vendors at the trade show such as vendor products, catalogue information, vendor location, etc. (see at least: 00108-10, 0007 lines 14-17, 0009 lines 5-8 and 22-26, 0011 all). More specifically, Russell teaches a vendor uploading, via a secure web page, information such as the vendor's name, web site, products offered, location, etc. (see at least: 0007 all, 0009 all). By explicitly teaching the inputting of the vendor's products (i.e. *a product list*), location, etc. via the web page, Russell teaches the implicitly implied *means for inputting merchant information and item information*.

Furthermore, regarding applicant's assertion on pages 14-15 that the combination of Chang and Russell would not have been obvious, the Examiner notes that the combination would have been obvious to one of ordinary skill in the art for at least the reasons cited in the Final Office Action mailed 3/23/2007. Additionally, it is necessary to note that Chang and Russell do indeed constitute analogous art. Because both Russell and Chang pertain directly to multi-dealer venues with product/vendor locating means, and further because both Chang and Russell are indeed pertinent to the problem applicant is attempting to solve, they are considered analogous art.

Aside from these teachings, it is also pertinent to note that the teaching-suggestion-motivation test is no longer the sole test of obviousness; rather, when references unite old elements with no change in their respective function and yield predictable results, the claimed subject matter is obvious under KSR [See *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396]. When considering KSR, the Examiner further asserts that the combination would also have been obvious as the Chang and Russell unites known prior art elements without change to their respective function and yields predictable results.

Regarding claim 8, pages 15-19 of the Appeal brief outline parallel arguments to those regarding claim 1 on pages 11-15. These arguments are treated similarly to claim 1 as outlined above.

Regarding claim 2 and related claim 9, Chang in view Russell teaches *wherein the computer network is the internet* (see at least: Chang, 0023).

Regarding claim 3 and related claims 10-11, Chang in view of Russell teaches a *remote server* for maintaining the database and *a website for access to the database* (see at least: abstract lines 5-9 (note: the database may be “accessed on a wireless network” – i.e. is remote), 0007 lines 7-11 and 14-17, 0009 lines 4-8, 0012 lines 1-10).

Regarding claim 13, Chang in view of Russell teaches *wherein the first access is from a remote computer terminal with respect to the database* (see at least: Chang, Fig. 1; Russell, abstract lines 5-9, 0007 lines 7-11 and 14-17, 0009 lines 4-8, 0012 lines 1-10).

Regarding claim 15, Chang in view of Russell teaches *a computer website providing access to the database wherein the computer website is remote with respect to the database* (see at least: Russell, abstract, 0007, 0009, 0012). The Examiner notes that the user may access the database/web page through a wireless network using a computer system supplied at the tradeshow (see at least: abstract, 0012).

Regarding claim 18, Chang in view of Russell teaches *wherein the item information includes geographical information associated with the item for sale by the merchant* (see at least: Chang, abstract lines 10-14, 0023 lines 24-26, 0025 lines 1-3 and 6-10). The Examiner notes that the location of a product “in a particular store” constitutes geographic information.

Regarding dependent claims 4-5, 7, 12, 14, 17, and 19-20, the Examiner notes that applicants remarks do no suffice to overcome the rejection set forth in the Final Action mailed 3/23/2007. Additionally, it is further asserted as set forth in the Final Action that the combination of Chang, Russell, and Pugliese would have indeed been obvious to none of ordinary skill in the art as the 3 references constitute analogous art and Pugliese would have provided the necessary motivation as cited in the action. Additionally, as noted above, , when references unite old elements with no change in their respective function and yield predictable results, the claimed subject matter is obvious under KSR [See *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396]. When considering KSR, the Examiner further asserts that the combination would also have been obvious as the combination merely unites known prior art elements without change to their respective function and yields predictable results.

Regarding dependent claims 46 and 16, the Examiner notes that applicants remarks do no suffice to overcome the rejection set forth in the Final Action mailed 3/23/2007. Additionally, it is further asserted as set forth in the Final Action that the combination of Chang, Russell, and PTO 892 U would have indeed been obvious to none of ordinary skill in the art as the 3 references constitute analogous art and PTO 892 U would have provided the necessary motivation as cited in the final office action. Additionally, as noted above, , when references unite old elements with no change in their respective function and yield predictable results, the claimed subject matter is obvious under KSR [See *KSR*, 127 S.Ct. at 1741, 82 USPQ2d at 1396]. When considering KSR, the Examiner further asserts that the combination would also have been obvious as the combination merely unites known prior art elements without change to their respective function and yields predictable results.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

William J. Allen, Patent Examiner




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Conferees:



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Vincent Millin, Appeals Specialist